

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
)
Regulation of Business Data Services for) WC Docket No. 17-144
Rate-of-Return Local Exchange Carriers)

**COMMENTS OF
NTCA–THE RURAL BROADBAND ASSOCIATION**

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these Comments in response to the Notice of Proposed Rulemaking released April 18, 2018, in the above-captioned proceeding.² NTCA supports adoption of a defined path to permit certain RLECs to elect price cap regulation of their special access services (also known as “Business Data Services” or “BDS”).

In the NPRM, the Commission proposes to allow rate-of-return carriers that receive universal service fund (“USF”) support under the Alternative Connect America Cost Model (“A-CAM”) to elect to move their BDS to incentive regulation.³ Under the Commission’s proposal, RLECs who make this election will no longer be subject to cost-based pricing regulation, including the need to conduct cost studies. Allowing carriers to opt into price cap regulation of

¹ NTCA represents approximately 850 independent, community-based telecommunications companies and cooperatives and more than 400 other firms that support or are themselves engaged in the provision of communications services in the most rural portions of America. All NTCA service provider members are full service rural local exchange carriers (“RLECs”) and broadband providers, and many provide fixed and mobile wireless, video, satellite and other competitive services in rural America as well.

² *Regulation of Business Data Services for Model-Based Rate-of-Return Carriers*, WC Docket No. 17-944, DA 18-505, Notice of Proposed Rulemaking (rel. Apr. 18, 2018) (“NPRM”).

³ *Id.* at ¶ 1.

their BDS service can be beneficial for those carriers by reducing their remaining costs associated with rate-of-return (“RoR”) regulation in the wake of having elected to receive fixed universal service support in lieu of cost-based support. Indeed, NTCA found in a 2016 survey of NTCA’s members that the average annual reporting burden for data collections related to cost-based recovery and settlements is greater than 250 hours, or more than 30 workdays per year.⁴ Relieving RLECs of some of this burden where it makes sense to do so given other cost recovery elections they have made would be beneficial for those carriers. Therefore, NTCA supports an opportunity for those RLECs that have chosen to receive A-CAM support to elect price cap regulation of BDS, provided that such a price cap election continues to have no effect on the support or settlements received by other providers. Moreover, NTCA encourages the Commission to allow RLECs that have elected the “Alaska Plan” to be able likewise to opt in to such incentive regulation on a voluntary basis.

The Commission should not, however, make the election mandatory for all carriers. Some RLECs operate in a way that makes continued cost-based recovery of BDS a more logical choice for them, even as they may have elected to receive fixed universal service support. Therefore, NTCA encourages the Commission to allow RLECs the option of choosing between RoR and incentive regulation for their BDS offerings.

NTCA further supports ITTA/USTelecom’s proposal to apply the existing CMT to BDS offerings provided by A-CAM carriers electing incentive regulation.⁵ This proposal would allow an A-CAM carrier to elect incentive regulation for its BDS offerings in those counties that have

⁴ See Comments of NTCA-The Rural Broadband Ass’n, National Broadband Agenda, Docket No. 160831803-6803-01 (Oct. 11, 2016), available at <https://www.ntia.doc.gov/files/ntia/publications/ntca.pdf>.

⁵ See NPRM at ¶ 38.

already been deemed competitive pursuant to the existing CMT. Although this determination was for price cap carriers, as ITTA/USTelecom noted, only 78 purely rate-of-return counties were not analyzed by the existing CMT.⁶ Establishing a new CMT solely for BDS services offered by electing A-CAM carriers would be unnecessarily time-consuming and burdensome for both service providers and the Commission.

Based on the foregoing, NTCA supports the Commission's proposal to allow A-CAM carriers to elect incentive regulation for their BDS offerings. NTCA also encourages the Commission to extend this option to RLECs that have elected the Alaska Plan.⁷ This election should not, however, be mandatory for any RLEC – each carrier should have the ability to choose between incentive and price cap regulation of their BDS service based on what makes the most sense for their individual operations. Finally, NTCA encourages the Commission to adopt the ITTA/USTelecom proposal for determining whether an electing carrier's BDS service area is competitive.

⁶ *Id.*

⁷ In the interest of providing efficient and effective cost recovery options for all small rural operators, in addition to supporting action consistent with the ITTA/USTelecom proposal, NTCA would also welcome a further conversation with the Commission and its staff with respect to potential ways of reducing cost study demands and burdens for those carriers that remain rate-of-return-regulated for special access services and receive universal service support based upon actual costs.

Respectfully submitted,

NTCA–The Rural Broadband Association



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